

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

UNITED STATES OF AMERICA,

VS.

CRIMINAL ACTION NO. 4:06CR104-P-B

**JENNIFER YVONNE BERRY,
JOHNNIE LEE WINFIELD, AND
REHAB SOURCE, INC.,**

DEFENDANTS.

ORDER CONTINUING TRIAL

This matter comes before the court upon Defendant Johnnie Winfield's Motion to Continue [61]. After due consideration of the motion the court finds as follows, to-wit:

Trial is currently set for all defendants on August 6, 2007. Counsel for Defendant Winfield avers that he needs additional time to review the voluminous discovery involved in this case and that he has a previously scheduled trial in State Court on the same day as that set for this matter.

The Government has no objection to the continuance.

Co-defendant Jennifer Berry filed a joinder in the instant motion to continue and expressed her desire to waive her rights under the Speedy Trial Act. Though the court notes the joinder in Winfield's motion, the court observes that one cannot waive one's rights under the Speedy Trial Act. *Zedner v. United States*, 126 S.Ct. 1976, 1985 (2006).

The above circumstances enable the Court to exclude, pursuant to 18 U.S.C. section 3161(h)(8)(A), the period of delay from August 6, 2007 until the new trial date to be set in this matter. The time is excludable under subsection (h)(8)(A) because, given the circumstances described above, a continuance is necessary to afford the defendant's counsel more time to adequately prepare for his client's defense. As such, the ends of justice served by the granting of this

continuance outweigh the best interests of the public and the defendant in a speedy trial.

IT IS THEREFORE ORDERED AND ADJUDGED that:

(1) Defendant Johnnie Winfield's Motion to Continue [61] is hereby **GRANTED**;

(2) Trial of this matter is continued as to all defendants until Monday, October 1, 2007 at 9:00 a.m. in the United States Courthouse in Greenville, Mississippi;

(3) The delay from August 6, 2007 to October 1, 2007 is excluded from Speedy Trial Act considerations as set out above;

(4) The deadline for filing pretrial motions is September 10, 2007; and

(5) The deadline for submitting a plea agreement is September 17, 2007.

SO ORDERED this the 25th day of June, A.D., 2007.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE